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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,885	02/09/2006	Kevin J. Dewey	OLI02 P-361	2130
277 7590 04/19/2007 PRICE HENEVELD COOPER DEWITT & LITTON, LLP 695 KENMOOR, S.E. P O BOX 2567 GRAND RAPIDS, MI 49501			EXAMINER SIPOS, JOHN	
			ART UNIT 3721	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/19/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/567,885

Applicant(s)

DEWEY ET AL.

Examiner

John Sipos

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 47-104 is/are pending in the application.
- 4a) Of the above claim(s) 102-104 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 91-101 is/are allowed.
- 6) ☐ Claim(s) 47-49, 51, 52, 54, 55, 57, 58, 60, 62-64, 66-69, 71-73, 75-83 and 85-90 is/are rejected.
- 7) ☒ Claim(s) 50, 53, 56, 59, 61, 65, 70, 74 and 84 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

LACK OF UNITY

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1. In order for all inventions to be examined, the appropriate additional examination fees must be paid.

Group I, claims 47-101, drawn to a container sealing apparatus.

Group II, claim 102-104, drawn to a container holder.

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group I claims the features of a heater platen and pressure applicator; and Group II claims a container holder with at least one openings, legs and a film holder. Since the special technical features of the Group I invention is not present in the Group II invention being claimed and the special technical features of the Group II invention is not present in the Group I invention being claimed, unity of invention is lacking.

During a telephone conversation with Mr. M. P. Dolce on March 7, 2007, a provisional election was made with traverse to prosecute the invention of Group I, claims 47-101. Affirmation of this election must be made by applicant in replying to this Office action. Claims 102-104 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

REJECTIONS OF CLAIMS BASED ON PRIOR ART

The following is a quotation of the appropriate paragraphs of 35 U.S.C. ' 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 47-49,69,71,72,77 and 78 are rejected under **35 U.S.C. ' 102(b)** as being anticipated by the patent to Lastovich (6,499,271). The patent to Lastovich shows a container sealing apparatus comprising a base, a container holder 106 that is slidable into and out of position below a heater platen 114, a film supply roll R, a rotatable handle 136 that moves the heater platen down onto the container, a cam 140 connecting the handle to a pressure applicator 138 that includes springs 148 that presses the heater platen against the film and onto the container.

The following is a quotation of 35 U.S.C. ' 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 51,52,54,55,57,58,60,62-64,66-68,73,75,76,79,80-83 and 85- 90 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Lastovich (6,499,271) in view of Anderson (3,378,991). The Lastovich device lacks the use of acuter on the heater platen. The patent to Anderson shows a container sealing apparatus comprising a base, a container holder 16 with side grooves that is slidable into and out of position below a heater platen 14, a film supply roll 48, a rotatable handle 37 that moves the heater platen down onto the container, a pressure applicator 41,42 that presses the heater platen against the film and onto the container and cutter 56 that cuts the film from the roll. It would have been obvious to one skilled in the art to provide a cutter on the heater platen of Lastovich as shown by Anderson to automatically cut the film. Note that although Lastovich doesn't clearly set forth the use of a cutter other than a manual cutting operation (column 5, lines 58-61), Lastovich must have envisioned the use of a cutter since the embodiment of Figure 16 uses a conveyor to move the containers past the heater platen.

Regarding the panels of the base recited in claim 55, it would have been obvious to one skilled in the art to enclose the device of Lstovich to protect the user from

accidental access to the interior of the device.

Regarding the horizontal grooves of claim 57, Lastovich shows such grooves for the container holder at rails 20,22.

Regarding claim 85, the use of reciprocating cutters that are designed to cut while moving in both directions is well known in the cutting art and it would have been obvious to one skilled in the art to use such a cutter in the Lastovich device to increase the speed of the machine.

ALLOWABLE SUBJECT MATTER

Claims 91-101 are allowed.

Claims 50,53,56,59,61,65,70,74 and 84 are objected to as being dependent upon a rejected base claim, but **would be allowable if rewritten in independent form** to include all of the limitations of the base claim and any intervening claims.

ADDITIONAL REFERENCES CITED

The cited prior art is made of record but has not been relied upon in the rejection of claims. However, the prior art is considered pertinent to applicant's disclosure.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **571-272-4468**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at **571-272-4467**.

The **FAX** number for U.S. Patent and Trademark Office is **(571) 273-8300**.


John Sipos
Primary Examiner
Art Unit 3721

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